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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,323	12/14/2001	Kazuhiro Miyatsu	53815-00003USPT	6726

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EXAMINER

JAMAL, ALEXANDER

ART UNIT PAPER NUMBER

2643

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/024,323

Applicant(s)

MIYATSU ET AL.

Examiner

Alexander Jamal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Based upon the submitted amendment, the examiner notes that claims 1,5,6,11,18,24,25,28,31,32,36,44 have been amended.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-7,11-18,22-32,36-39,43,44** rejected under 35 U.S.C. 103(a) as being unpatentable over Kotzin et al. (6470180), and further in view of Freeny Jr. (6490443).

As per **claim 1**, Kotzin discloses a local wireless network between devices 202, 206 and 209 (Fig. 2), and an external network (bluetooth) between devices 202, and 215. Transmitter 215 is used to download software to interface devices (mobile phones) 202 (ABSTRACT). However, Kotzin does not disclose that the software comprises an embedded code implementing a public key encryption system.

Freeny discloses a communication system comprised of at least two networks (one of which may be a Bluetooth network) (Col 38 lines 25-35) that uses public key

encryption to only allow appropriate subscribers to access the data being sent (Col 38 lines 33-48). It would have been obvious to one of ordinary skill in the art at the time of this application to implement private key encryption in the bluetooth network for the purpose of only allowing the appropriate subscribers to access the downloaded data (improved security).

As per **claim 18**, claim rejected for same reasons as claim 1 rejection. The software downloaded to the terminals 202 establishes a functional relationship (such as data used in an online game) between the terminals and the application end device (which may be any of devices 215,212,209 used to implement functions of the game) (Col 3 lines 5-21).

As per **claim 28**, claim 28 rejected for same reasons as claim 1 rejection. The terminals may be mobile phones. The phones comprise interfaces to communicate in the external network (Fig. 2):

As per **claim 36**, claim rejected as a method performed by the device of the claim 28 rejection.

As per **claims 2,3,4,27,29,30,37,43**, the system may be a wireless cellular system with mobile phone that communicates on an external bluetooth network (Col 2 lines 33-53, Col 3 line 60 to Col 4 line 5).

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As per **claims 5,31**, claim rejected for same reasons as claim 18 rejection.

As per **claims 6,7,11-15,22-26,32,34,44**, claims rejected for same reasons as claim 1 rejection.

As per **claims 16,17,38,39**, the online gaming server of Kotzin in view of Freeny inherently comprises an operator for the purpose of operating the server. The operator is a certification authority for the online game (which includes the local and external networks).

4. **Claims 8-10,19-21,33-35**, rejected under 35 U.S.C. 103(a) as being unpatentable over Kotzin et al. (6470180) and Freeny Jr. (6490443) as applied to claims 1,5,18,28, above, and further in view of Nelson (6823184).

As per **claim 8-10,19-21,33-35**, Kotzin and Freeny disclose applicant's claims 1,5,18,28, and discloses that the communication system may be coupled to the internet (Col 3 lines 44-50) to play an online game. The online game inherently requires an interface including a port between the user terminal and the application end device for the purpose of allowing communication between the devices. However, Kotzin does not specify that the interface comprises JAVA application programming.

Nelson discloses a Bluetooth communication system (Col 11 lines 40-52) in which software enabling an interface for the user terminal is downloaded to the terminal devices in the form of JAVA applets (Col 10 lines 43-46). It would have been obvious to one of ordinary skill in the art at the time of this application that Kotzin's system (which

may be coupled to the internet) could implement the application software (and hence the interface back to the online game server) in the form of JAVA applets for the advantage of using a well known programming standard that is compatible with the widely used internet.

5. **Claims 40-42**, rejected under 35 U.S.C. 103(a) as being unpatentable over Kotzin et al. (6470180) and Freeny Jr. (6490443) as applied to claims 36 above.

As per **claims 40-42**, Kotzin and Freeny disclose applicant's claim 36, but does not specify any fee charging for the software download. It would have been obvious to one of ordinary skill in the art at the time of this application that various owners of network elements (hardware, software ect.) should charge others for the use of the elements for the advantage of financially supporting the elements (and the people involved in producing them).

Response to Arguments

6. Applicant's arguments with respect to claims 1-44 have been considered but are moot in view of the new ground(s) of rejection. Additionally examiner will respond to the arguments pertaining to the Kotzin and Freeny references which are used in the current set of rejections.

As per applicant's characterization of the Kotzin reference (remarks page 11 second paragraph), examiner disagrees. The Kotzin reference discloses a

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telecommunication system in which software is downloaded to client devices in the network as per the claim 1 rejection above. Examiner notes Col 4 lines 30-57 disclose that the mobile units may transmit software back to broadcast transmitter 215. This could be considered the local network with the broadcast transmitter being the application end device. Examiner further notes that the public key encryption taught by Freeny could be applied in either direction for the software being sent between the mobile phones and the base stations, or the mobile phones and the broadcast transmitter (application end device) in order to ensure a more secure transmission in all directions between all devices.

As per applicant's arguments that Freeny does not disclose an embedded code as per the newly amended claim 1 (page 12,13), examiner disagrees. Freeny discloses a system where software may be downloaded via a known protocol (such as Bluetooth) from a network to a client device using public key encryption (as per the claim 1 rejection). Public key encryption is a known method in which transmitted data is encrypted (embedded) with a key (code) that must be decrypted with an additional key (code) at the receiving device (thus confirming that the end-device is authorized).

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Jamal whose telephone number is 571-272-7498. The examiner can normally be reached on M-F 9AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis A Kuntz can be reached on 571-272-7499. The fax phone numbers for the organization where this application or proceeding is assigned are **571-273-8300** for regular communications and **571-273-8300** for After Final communications.

AJ
August 24, 2005


CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER
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